

TRANS-ISTHMIAN HIGHWAY

*Exchange of notes at Washington August 31 and September 6, 1940
(with memorandum dated August 29, 1940), supplementing
convention of March 2, 1936*

Entered into force September 6, 1940

58 Stat. 1593; Executive Agreement Series 448

The Secretary of State to the Panamanian Ambassador

AUGUST 31, 1940

EXCELLENCY:

I have the honor to invite Your Excellency's attention to the provisions of the Trans-Isthmian Highway Convention signed by representatives of the United States of America and Panama at Washington on March 2, 1936,¹ concerning which conversations have been held with Your Excellency with a view to arriving at a mutually acceptable agreement as to the manner in which our two Governments may best coordinate their efforts in the building of the Highway.

In order to expedite the construction of the Trans-Isthmian Highway, which for the first time will complete the connection between the capital city of Panamá with the other principal Panamanian city of Colón, and for the purpose of facilitating the defense of the Panama Canal which is of such vital importance to our two countries, I have the honor to inform you that the Government of the United States is prepared to bear the full engineering cost for a dual highway and the construction cost for a twenty-foot roadway between the Madden Dam and Cativá.

During the course of the conversations referred to above, it will be recalled that my Government indicated that it might be desirable for defense purposes to construct a highway capable of withstanding greater stresses and strains than was contemplated at the time the Trans-Isthmian Highway Convention was negotiated. My Government's offer mentioned in the preceding paragraph is therefore contingent upon the agreement of your Government to improve the construction specifications contained in Article IV of the Trans-Isthmian Highway Convention to permit of the use of such standards and specifications as the United States may determine

¹ TS 946, *ante*, p. 778.

necessary for defense purposes. All other provisions of the Convention would of course continue to remain in full force and effect.

In the course of the conversations between our two Governments with regard to the best way to cooperate in this matter, we also discussed the bases of the arrangement under which the Government of the United States would, if its offer is accepted by the Government of Panama, make the engineering survey for a dual highway and construct at its own expense the twenty-foot roadway between the Madden Dam and Cativá. There is attached a memorandum dated August 29, 1940 embodying my understanding of the arrangement discussed during these conversations.

Upon receipt of a note from Your Excellency accepting the offer stipulated in this note and the understandings on which this note is based, the Government of the United States is prepared to undertake at once the necessary steps to carry into effect this offer.

Accept, Excellency, the renewed assurances of my highest consideration.

CORDELL HULL

Enclosure:

Memorandum,
August 29, 1940.

His Excellency

Señor Dr. Don JORGE E. BOYD,
Ambassador of Panama.

AUGUST 29, 1940

MEMORANDUM OF PROCEDURE TO BE FOLLOWED IN THE
CONSTRUCTION OF THE TRANS-ISTHMIAN HIGHWAY

(1) The United States Public Roads Administration will be responsible for the plans, surveys and estimates, and for all engineering work for a dual highway, and for the construction of one 20-foot roadway through the territory of the Republic of Panama from a point on the boundary of the Madden Dam area at Alhajuela to a point on the boundary of the Canal Zone near Cativa, the full engineering and construction cost thereof to be paid by the Public Roads Administration. The final location is to be concurred in by the Chief Engineer of the Highway Board of Panama.

(2) The Republic of Panama shall institute and prosecute to completion, without expense to the United States, all necessary proceedings for the expropriation, condemnation, acquisition or purchase of land required in the construction of the road providing a minimum right of way of 100 feet for each roadway within the jurisdiction of the Republic of Panama.

(3) The Republic of Panama shall furnish free of charge in natural deposits all stone, gravel, sand, earth, or other natural products for the con-

struction, whether or not these occur on the public domain, as well as easements necessary to make these deposits available wherever these materials cannot be readily obtained within the Canal Zone. The Republic of Panama shall likewise make available free of charge lands necessary for the use of construction camps, storage of materials, and all other purposes incident to the work.

(4) The Republic of Panama shall make available for the repair of tools and equipment used in this construction, and at a reasonable cost for time and materials, the facilities of the mechanical shops of the Highway Board of Panama in so far as these may be adequate for the purpose.

(5) The Republic of Panama shall furnish such of its construction equipment as may become available from the Chorrera-Rio Hato Highway that may be required on the Trans-Isthmian Highway at a rental rate or sale price to be determined by the depreciated value of the equipment at the time of its transfer. The United States of America through the Public Roads Administration shall make available for purchase by the Republic of Panama any equipment or supplies available upon completion of the work, the price of equipment to be determined on the basis of depreciated value and the price of materials and supplies to be determined on the basis of actual cost.

(6) The Republic of Panama shall furnish to the Public Roads Administration all field data, field notes, plans, and other information regarding the Trans-Isthmian Highway which it has developed from its surveys.

(7) It shall be the policy of the Public Roads Administration to employ in engineering and other positions, such qualified personnel as the Panamanian Government will designate, which may be required in the construction of the Trans-Isthmian Highway. The Republic of Panama shall place the assignment of labor to this project in high priority among construction projects over which it has control.

(8) The Republic of Panama shall enact legislation and take such other action as may be necessary to exempt from the payment of customs duties, taxes and imposts of all kinds, the materials, supplies, equipment and tools required for use in this construction, as well as the salary or income of any United States citizen employed by the Public Roads Administration who may be assigned to this work. The Republic of Panama will also use all means at its disposal to facilitate the prompt deliveries of all necessary supplies, materials and equipment.

(9) The Republic of Panama shall assume all liability of any nature or kind arising out of, or in connection with, the work provided for herein, resulting from the construction of the Trans-Isthmian Highway within the jurisdiction of the Republic of Panama except damages to United States citizens employed by the Public Roads Administration.

The Panamanian Ambassador to the Secretary of State

[TRANSLATION]

EMBASSY OF PANAMA
WASHINGTON, D.C.

No. D-445

SEPTEMBER 6, 1940

MR. SECRETARY:

I take special pleasure in acknowledging to Your Excellency the receipt of your very interesting note of August 31, 1940, the text which reads as follows:

[For text, see above.]

It gives me great satisfaction to state to Your Excellency that my Government accepts with pleasure the friendly offer which is made to it through that communication by the enlightened Government of the United States, in the terms expressed therein and in the Memorandum which your Excellency was good enough to send with it as an integral part of the said note, it being understood that the construction specifications for the Trans-Isthmian Highway indicated as minimum in Section IV of the Convention signed by our Governments on March 2, 1936 can be improved in the construction proposed by Your Government in order to meet "such standards and specifications as the United States may determine necessary for defense purposes," and that the other articles of the Convention of 1936, referred to, shall continue in full force and effect, including the seventh, which stipulates that both Panama and the United States shall have equally the unrestricted use of the Trans-Isthmian Highway, subject only to the laws and regulations in force in the respective jurisdictions on vehicular traffic.

My Government appreciates at its full value this act of open friendship and solidarity on the part of Your Excellency's illustrious Government, which is destined to intensify and fortify, rendering still firmer, the manifold spiritual, political and economic ties which happily bind our two countries, and which have always existed, beginning, in truth, to be forged in the very commencement of our independent life.

In harmony with that intention of establishing not only commercial interchange but also a true spiritual understanding that may serve as a firm basis for political and economic relations, my Government is disposed and has decided, as I had the honor to state to His Excellency President Roosevelt in my speech of presentation of my credentials as Ambassador of Panama before his Government, to do everything in its power to the end that "our relations may continue to develop, let us say with confidence, translated into effective solidarity, harmony and cooperation".

Furthermore, this highway will doubtless serve to strengthen the capacity of our two Governments to cooperate reciprocally in an effective manner in the defense of the great work of the Canal.

I request Your Excellency to accept the renewed homage of my most distinguished consideration.

JORGE E. BOYD
Ambassador

HIS EXCELLENCY CORDELL HULL,
Secretary of State,
Washington, D.C.